IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7447 OF 2007

Smt.Gangu Valu Rajput ...Petitioner
Versus
1. The State of Maharashtra
and Ors. ....Respondents

A L O N G W I T H
WRIT PETITION NO. 7490 OF 2007

Smt.Kalpana Yashwant Pawshe ...Petitioner
Versus
1. The State of Maharashtra
and Ors. ....Respondents

P.A.Pol for the petitioners.
Mr.R.M. Patne, AGP for respondent nos.1 to 3.
Mr.S.P.Kanuga i/by.S.N.Natu for respondent no.4.

CORAM: S.C.DHARMADHIKARI, J.

30th November, 2007

P.C. :

1. These petitions challenge a Revisional Order dated 28.9.2007.

2. The revisional applicants are two persons who are ladies not successful in getting the ration shop allotment.

3. The petitioner in petition No. 7447 of 2007 was the respondent no.2 to the Revision Applications. The petitioner in Writ Petition No. 7490 of 2007 is the revision applicant who had filed a Revision Petition alongwith Smt. Pushpa Rajendra Agarwal.

4. It is not necessary to go into all contentions in detail because the grievance of the petitioner in Writ Petition No. 7447 of 2007 is that when the Revision Applications were heard, although she was present, she was handicapped because the copies of the Revision Applications were not supplied to her in advance.

5. When the matter was mentioned before me, I called upon the Learned AGP Shri. Patne, to produce the record so that the court can be satisfied as to whether the copies of the Revision application in question were indeed served on the petitioner. In all fairness, Mr.Patne states that the record does not show that the copies were indeed served. However, he justified the findings of the Minister on the basis of the record available.

6. To my mind, when the Revision Application challenges the allotment of the fair price shops in favour of the petitioner, interest of justice and fairness demanded that a copy of such Revision Application should have been served in advance on the petitioner so as to enable her to make submissions. The grounds on which the allotment is challenged being naturally unknown to her, in the facts and circumstances of the present case, she was indeed handicapped. In such circumstances, the Revision Application preferred by Smt. Pushpa Rajendra Agarwal to challenge the allotment in favour of the present petitioner will have to be heard again.

7. The grievance in the second petition by the petitioner Kalpana Pawshe is that even she did not have a copy of the Revision Application submitted by Pushpa Rajendra Agarwal. Further, the Revision Application, in so far as Smt.Pushpa is concerned, is allowed, but, insofar as Kalpana Pawshe is concerned, the order on the Revision Application has been rendered on the basis that the said applicant is ineligible. Mr.Pol

challenges this finding also and submits that there was enough material and in any event when both Smt.Gangu Valu Rajput and Pushpa Rajendra Agarwal are disentitled and ineligible, then, the shop must be allotted to Kalpana Yeshwant Pawshe.

8. In my view, in the facts and circumstances, it would be fair, just and proper if the Revision Application is directed to be heard afresh, after all parties produce proof of having received the Revision Applications and are made aware of the date of hearing. The Minister thereafter to hear them or their Advocates and pass reasoned orders without being influenced by any observations in the orders under challenge.

9. Needless to state, that during the pendency of the Revision Applications, the arrangement presently functional and in operation should continue subject however, to the final orders in the Revision Application.

10. All contentions of both sides are kept open.

11. Writ Petitions are disposed off by quashing and setting aside the orders passed by the Revisional Authority on 28.9.2007.

12. The Revision Applications to be heard and dispose off within a period of three months from today.

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